

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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FRANK MERCADO, Individually :
and as administrator of :
the Estate of David Mercado, :
et al., :

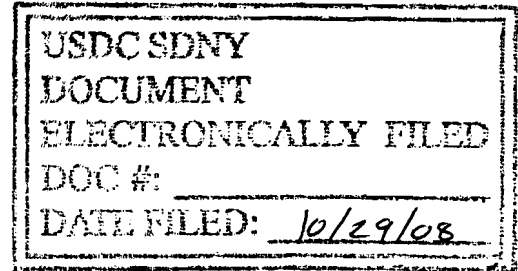
Plaintiffs, :

-against- :

THE CITY OF NEW YORK, et al., :

Defendants. :

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08 Civ. 2855 (BSJ) (HBP)

ORDER

PITMAN, United States Magistrate Judge:

By letter dated August 3, 2009, the New York State Commission of Correction has submitted for in camera review unredacted reports prepared by the Commission concerning the deaths of Jamal McCrae, Raymond Warne, Freddy Semperteugui, Freddy Kilbride, Rene Ramirez, Raymond Delarosa, Louis Correa, Joseph Hughes, Jose Cruz, Carina Montes, James Davis, Thomas Devoe, David Pennington, Milton Diaz, Charon Watkins, Jose Tavarez and Matthew Cruz. All of these individuals committed suicide while in the custody of the New York City Department of Corrections.

These reports have been subpoenaed by plaintiffs in this matter. The Commission advises that because the reports discuss mental health concerning the decedents, it is prohibited by Section 33.13 of New York's Mental Hygiene Law from disclosing

the reports in the absence of a court order finding that the interests of justice warrant disclosure of the reports.

I have reviewed each of the reports the Commission has submitted. Given the relatively minor and largely non-personal references to the decedents' mental health issues, I find that the interests of justice do warrant disclosure of the unredacted report to counsel. In order to minimize the burden on the Commission, which is a non-party, and its counsel, counsel for plaintiff may pick up the review copies from my chambers; plaintiff's counsel is directed to contact my Deputy, Mr. Bruce Hampton ((212) 805-6112) to arrange a date and time for counsel to pick up the reports. He is directed to provide copies to counsel for all other parties.

Dated: New York, New York
October 29, 2009

SO ORDERED


HENRY PITMAN
United States Magistrate Judge

Copies transmitted to:

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